

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

IRIS CONNEX, LLC,

Plaintiff,

v.

DELL INC., *et al.*,

Defendants.

Case No. 2:15-cv-01915-JPG

CONSOLIDATED LEAD CASE

IRIS CONNEX LLC’S MOTION TO EXTEND BRIEFING

Plaintiff Iris Connex, LLC (“Plaintiff” or “Iris”) hereby files its motion to extend briefing in response to the Court’s Order on Defendant Dell, Inc.’s (“Defendant” or “Dell”) Motion to Expedite Briefing. [Dkt. No. 66]. Dell moved this Court to shorten the time provided by the Local Rules for Plaintiff to respond to its Motion for Relief from Certain Deponents’ Confidentiality Designations [Dkt. No. 60]. This Court granted Dell’s motion on the afternoon on November 29, 2016. As described in Dell’s brief, the parties met and conferred on November 23, 2016 regarding Dell’s motion to expedite briefing and Plaintiff confirmed that it needed the time allotted by the Local Rules to fully respond to Dell’s motion due to the prejudice to the Plaintiff based on the volume of the designations. Dell did not agree and filed its motion to expedite.

If the Court allows the expedited schedule to stand, Plaintiff will be prejudiced by the shortened response time. As the designating party, Plaintiff “must articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process,” to prove that the information should remain sealed. As a result, shortening the time to respond will significantly prejudice Plaintiff. Plaintiff needs the full time contemplated by the Local Rules to provide “compelling reasons” for each designation it seeks to maintain as Confidential. *See* Standing Order Regarding Protection of Proprietary and/or Confidential Information to Be Presented to The Court During Motion and Trial Practice, p. 3 (citing *Apple Inc. v. Samsung Elecs. Co.*, 727 F.3d 1214, 1221 (Fed. Cir. 2013) (applying 9th Cir. law)).

Allowing this motion to proceed as required under the Local Rules will not substantially prolong the Court’s decision on whether this case is exceptional, but the shortened response time does prejudice Plaintiff’s ability to respond. This Court granted Dell’s motion later in the afternoon on November 29, 2016, shortening Plaintiff’s response time to December 5, 2016, which only gives Plaintiff five (5) full days, three (3) business days and the weekend, to respond with “compelling reasons supported by specific factual findings” for eighty-one separate designations. The expedited schedule does not provide Plaintiff with enough time to respond to Dell’s motion under the standard for keeping confidential information sealed. Additionally, Defendant’s proposed schedule takes away Plaintiff’s ability to file a surreply, which it has a right to file pursuant to L.R. 7(f). *See* L.R. 7(e) and 7(f).

Finally, Dell and its counsel violate their duty of candor to this Court by misrepresenting the testimony designated by the third-party deponents with its summary listing of topics. Dkt.

No. 60, pp. 3-5. For example, Mr. Yates did not designate the information regarding “Iris Connex’s acquisition of the patent-in-suit” as Confidential, he designated the information regarding the *specific terms* of the patent purchase agreement for the patent-in-suit as Confidential.

Based on the above, Plaintiff respectfully requests that this Honorable Court grant Iris’ Motion to Extend Briefing and allow Plaintiff its full time under the Local Rules to respond to Dell’s Motion for Relief from Certain Deponents’ Confidentiality Designations.

Dated: December 1, 2016

Respectfully submitted,

/s/ Rasheed M. McWilliams

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IRIS CONNEX, LLC

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h) of the United States District Court for the Eastern District of Texas, Rasheed M. McWilliams, counsel for Plaintiff Iris Connex, LLC, conferred by phone with Defendant's counsel, Kimball R. Anderson and Anthony D. Pesce, on November 23, 2016 regarding **DELL'S MOTION TO EXPEDITE BRIEFING**.

Plaintiff's counsel indicated that it opposed the motion based on the prejudice outlined in this brief. Defendant's counsel did not agree and filed the motion to expedite, which once granted, required Plaintiff to file this **MOTION TO EXTEND BRIEFING**.

Dated: December 1, 2016

Respectfully submitted,

/s/ Rasheed M. McWilliams
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CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically on December 1, 2016, pursuant to Local Rule CV-5(a) and has been served on all counsel who have consented to electronic service. Any other counsel of record will be served by first class U.S. mail on this same date

/s/Rasheed M. McWilliams